REMARKS

As a preliminary matter, Applicant thanks Examiner Pillai for considering the rule 1.132 declaration of Farley Owens ("FO Dec"), which was previously presented to support Applicant's traversal of the rejection under 35 U.S.C. § 103(a), and further withdrawing the previous rejections under 35 U.S.C. § 103(a), which were made in view of, at least, Ram and Kennedy.

Applicant respectfully submits that the FO Dec is also relevant to the current rejections, and the remarks below further demonstrate the patentability of all rejected claims. A copy of the declaration is included with this Response for Examiner's convenience. As such, Applicant respectfully requests that this application be passed on to issuance.

However, if this application is not passed on to issuance, then Applicant hereby expressly requests an interview with the Examiner in advance of the preparation of an Office Action in reply to the present Response. Applicant's representative, Mark Triplett, may be reached at (312) 476-1151.

I. Overview of the Office Action

In the Office Action mailed on December 8, 2008 ("Office Action"): **(1)** claims 19-21, 23-27, and 29-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0004853 A1 ("Ram") and U.S. Publication No. 2003/0115117 A1 ("Sugimoto"); **(2)** claims 22, 28, 39, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ram, Sugimoto, and U.S. Publication No. 2002/0059129 A1 ("Kemp").

II. Claim rejections under 35 U.S.C. § 103(a)

As noted above, independent claims 19 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ram and Sugimoto. Applicant traverses the rejection for at least the following reasons.

First, it is noted that the Office again acknowledges that Ram "does not disclose automatically displaying the cursor at the second location so that the cursor continues to correspond to the price level." Applicant respectfully notes that Ram has already been discussed in this case, and for brevity, that discussion will not be repeated here. However, as previously discussed, Applicant would like to note that the cursor of the presently claimed invention

continues to correspond to the price level during a time and/or act of order entry when the display updates due to a change in market information or a repositioning command. The Office is respectfully directed to review the language of the claims for more detail.

The Office then turns to Sugimoto (instead of Kennedy, as in the previous rejection) as disclosing the feature(s) missing in Ram, and contends that it would have been obvious to one skilled in the art at the time of the invention to combine Ram and Sugimoto to arrive at Applicant's claimed invention. For example, the Office cites to page 1, paragraph 10 of Sugimoto in supporting this assertion. However, as will be discussed below, Sugimoto also fails to remedy the deficiency found in the cited art, including Ram, and appears to teach away from Applicant's presently claimed invention.

Sugimoto is directed to a system for displaying commodity characteristics on a screen that allows intuitive understanding of the magnitude of numerical values representing the characteristics of a commodity such as a price, a weight, a volume and a delivery date of a commodity, in purchasing the commodity on an Internet shopping site (¶ 2). Particularly, with respect to mouse pointer control, the system includes:

- changing the travel speed of the image indicating a selected commodity and the mouse pointer (¶ 9)

According to Sugimoto, it is possible to visually represent the characteristics of the commodity such as the price and size of the commodity via GUI display by "changing the drag speed in dragging the image of a selected commodity. This allows the operator or purchaser of the commodity to intuitively understand the characteristics of the target commodity. By increasing or decreasing the interval between the commodity image and the mouse pointer, the operator is able to intuitively understand the characteristics of the target commodity." (¶ 10).

According to the embodiment described with respect to FIG. 1 in Sugimoto, the "drag speed of the image of the commodity to purchase and the interval between the image of the commodity and the mouse pointer are changed in accordance with a higher/lower price of the commodity" (¶ 17). Sugimoto states that the "operator recognizes that a commodity with higher drag speed is less expensive or low-priced" (¶ 23).

Applicant respectfully submits that Sugimoto does not add anything to the body of art already cited before the Office in this case. At most, Sugimoto is merely cumulative. Indeed, Sugimoto does not teach or suggest automatic cursor movement as called for in Applicant's

claims, but rather discusses altering the travel speed of an image and the mouse pointer. However, the user must still drag the mouse pointer (and even select the image of the commodity with the mouse pointer before dragging – see, e.g., the diamond ring example discussed in ¶ 22). Consequently, Sugimoto makes no mention of Applicant's claimed feature that takes complete control of an on-screen cursor away from a trader during a price change on the trading screen, such that the cursor automatically moves with a price level that the cursor is positioned over just prior to the price change. For this reason alone, Applicant respectfully submits that the presently claimed invention is patentable over the cited art.

Additionally, without conceding the propriety of the combination, even if Ram and Sugimoto were combined as suggested by the Office, the combination fails to yield the claimed invention. For instance, Sugimoto requires the user to first select the image with the mouse pointer before the system can even determine how slow or fast the mouse pointer should move when the pointer is manually dragged (¶ 22). Selection of the image is directly analogous to Ram's required user selection of a price, and therefore, Sugimoto is cumulative to Ram in this respect. In another instance, the combination could actually be a hindrance, as Sugimoto teaches to slow-down the mouse pointer when a commodity reaches a price threshold, so that the purchaser can recognize that the commodity is high priced (¶ 23).

Furthermore, it appears that Sugimoto's whole premise is built on giving the user an "intuitive understanding" regarding the magnitude of numerical values representing price or some other characteristic of a commodity by changing the speed of the mouse pointer, for example (¶s 2 and 6-10). Consequently, the Sugimoto reference may actually be viewed as "teaching away" from Applicant's presently claimed invention, not only because Sugimoto could actually slow-down the cursor, but because Applicant's presently claimed invention is intentionally taking complete control of an on-screen cursor away from a trader during a price change on the trading screen, such that the cursor automatically moves with a price level that the cursor is positioned over just prior to the price change. Intentionally taking complete control of the on-screen cursor away from a trader during this crucial time (such that the cursor is automatically moved to a different location on the screen during a price change, for example), makes it difficult (if not impossible) to give the user an intuitive understanding regarding the characteristics of a commodity in the purchase of the commodity. Not only is this in direct contrast to the premise of Sugimoto's invention, but the discussion in Sugimoto's background

attempts to distinguish the Sugimoto invention from a category of systems that allow a user to quickly purchase a commodity (¶ 4).

Also, one skilled in the art certainly would fail to discern the invention from the combination of Ram and Sugimoto. In particular, the independent claims recite "automatically displaying the cursor at the second location so that ***the cursor continues to correspond to the price level***," ***and*** "set[ting] an order price parameter . . . ***based on the price level***" even though the price level corresponds to a different location upon a price change on the display. E.g., Claims 19, 34 (emphasis added). Neither Sugimoto nor Ram shows or suggests these claim elements. Thus, even if combined as suggested in the Office Action, the cited references fail to show or suggest the invention as claimed.

Moreover, as discussed in the previous Office Action (Response to the Office Action mailed February 21, 2008), it is also inappropriate here to combine Ram and Sugimoto as suggested in the Office Action. Adding a feature (e.g., automatic cursor movement) to a trading screen that takes complete control of the cursor away from the trader during a critical time of order entry would have been counter-intuitive and unpredictable to one of ordinary skill in the art at the time of the invention, and would have led to unexpected results. E.g., FO Dec at ¶ 2. Rather, maintaining complete control of the cursor by the trader during the critical time of order entry was the understanding engrained in the minds of the industry. E.g., FO Dec at ¶ 4. In fact, such understanding is reflected in the cited references, including Ram and Sugimoto.

Accordingly, independent claims 19 and 34 are allowable over the art of record, and claims 20-33 and 35-40 are allowable for at least the same reasons that their independent base claims are allowable, in addition to their own separate reasons. As such, Applicant respectfully requests reconsideration and withdrawal of this rejection.

V. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, Applicant will not address such statements at the present time. However, as always, Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of rejection have been respectfully traversed, accommodated, or rendered moot. Applicant therefore submits that the present application is in condition for allowance in view of the cited art. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Mark Triplett at 312-476-1151.

Respectfully submitted,

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